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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 State of California,

12 Plaintiff,

13 v.

14 Phillip Del Rosa, et al.,

15 Defendants.
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No. 2:23-cv-00743-KJM-SCR

ORDER

17 In anticipation of the hearing on California's Notices of Violation, ECF Nos 164 & 179,
18 set for September 25, 2025, at 10:00 AM in Courtroom Three, the court notifies the parties they
19 should be prepared to address the following questions, with citations to authority if available:

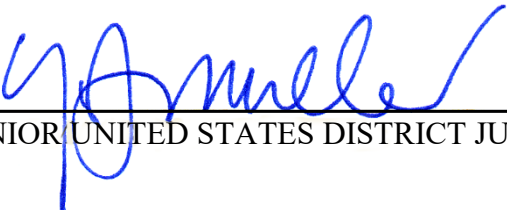
- 20 1. Does California contend that under the preliminary injunction, there are no
21 plausible cigarette sales the Azuma Corporation (Azuma) or its employees can
22 legally make while Azuma is on the PACT Act non-compliant list?
- 23 2. Does California concede the sale of cigarettes as described by defendants
24 occurring at the Azuma Corporation factory are being made face-to-face as defined
25 by 15 U.S.C. § 375(5)(A)?
- 26 3. California argues the term "delivery" in 15 U.S.C. § 376a(e)(2)(A) is not limited
27 by the Act's definition of "delivery sale" in § 375(5), but is instead broader.
28 Considering that § 376a is titled "Delivery Sales" and § 375(5) expressly defines

1 that term, how should the court interpret “delivery” in § 376a(e)(2)(A) — as
2 coextensive with “delivery sale” or as a separate, broader prohibition?

- 3 4. What authority addresses whether “delivery” as used in § 376a(e)(2)(A) includes
4 transfers where the buyer’s agent or employee, but not the buyer personally,
5 retrieves the product?
- 6 5. Does the plain language of the PACT Act and its prohibitions reach cigarette sales
7 between Indians of the same tribe on tribal land?
- 8 6. Can the parties clarify their positions regarding the applicability of the PACT Act
9 to the facts of this case, given *Washington v. Confederated Tribes of Coleville*
10 *Indian Resrv.*, 447 U.S. 143, 161 (1980), which this court previously has cited?
- 11 7. If the court determines the existing sanctions order remains applicable at this time,
12 do the parties agree the court may order an additional monetary sanction of
13 \$68,000 based on each notice of violation (\$136,000 total) under the sanctions
14 schedule in that order?

15 IT IS SO ORDERED.

16 DATED: September 23, 2025.



SENIOR UNITED STATES DISTRICT JUDGE